

IC 14-34-5

Chapter 5. Permit Terms

IC 14-34-5-1

Validity permit

Sec. 1. (a) A permit issued under IC 14-34-4 is valid for five (5) years unless the director grants a longer period under subsection (c).

(b) The director may issue a permit with a validity period exceeding five (5) years if the following conditions are met:

(1) The applicant demonstrates that a specified longer period is reasonably needed to obtain necessary financing for equipment and the opening of the operation.

(2) The application is full and complete for the specified longer period.

(3) The application complies with:

(A) the standards established by this article; or

(B) the rules that the commission adopts.

(c) If the director determines that a specified validity period exceeding five (5) years is warranted under subsection (b)(1), the director may issue a permit for the specified longer period.

As added by P.L.1-1995, SEC.27.

IC 14-34-5-2

Transferring, assigning, or selling permit rights

Sec. 2. (a) A permittee may not transfer, assign, or sell the rights granted under a permit without the written approval of the director.

(b) A successor in interest to a permittee who:

(1) applies for a new permit within thirty (30) days of succeeding to the interest; and

(2) obtains the bond coverage of the original permittee;

may continue the surface coal mining and reclamation operations according to the approved mining and reclamation plan of the original permittee until the successor's application is granted or denied.

As added by P.L.1-1995, SEC.27.

IC 14-34-5-3

Termination of permit for nonuse; extension of time

Sec. 3. (a) A permit terminates if the permittee has not commenced the surface coal mining and reclamation operations covered by the permit within three (3) years of the date of issuance of the permit. With respect to coal to be mined for use in a synthetic fuel facility or a specific major electric generating facility, the permittee's surface mining operation commences when construction of the synthetic fuel or generating facility is initiated.

(b) The director may grant a reasonable extension of time to the requirement of subsection (a) upon a showing that an extension is necessary because of any of the following:

(1) Litigation that:

(A) precludes the commencement of operations; or

(B) threatens substantial economic loss to the permittee.

(2) Conditions:

(A) beyond the control; and

(B) without the fault or negligence;
of the permittee.

(c) If a coal lease is issued under the federal Mineral Leasing Act, as amended (30 U.S.C. 187, 193, 201, 203), extensions of time under subsection (b) may not extend beyond the period allowed for diligent development in accordance with the federal Mineral Leasing Act, as amended (30 U.S.C. 187, 193, 201, 203).

As added by P.L.1-1995, SEC.27.

IC 14-34-5-4

Renewal of permit

Sec. 4. (a) A permittee may, within one hundred twenty (120) days before expiration of the current permit, apply to the director for renewal of a permit for a period not to exceed the validity period provided for in section 1 of this chapter.

(b) After compliance with IC 14-34-4-1 through IC 14-34-4-6 and IC 14-34-4-11, the director shall issue a renewal permit for the area within the existing permit unless it is established by opponents of the permit renewal and written findings are made by the director that any of the following conditions exist:

(1) The terms and conditions of the existing permit were not satisfactorily met.

(2) The present surface coal mining and reclamation operation does not comply with IC 14-34-10.

(3) The renewal request substantially jeopardizes the operator's continuing responsibility on existing permit areas.

(4) The operator has not provided evidence that the performance bond in effect for the operation will continue in full force and effect for a renewal requested in the application as well as an additional bond the director requires under IC 14-34-6.

(5) The permittee has not provided the director with required additional revised or updated information.

(c) If an application for renewal of a valid permit includes a proposal to extend the surface coal mining and reclamation operation beyond the boundaries authorized in the existing permit, the part of the application for renewal that addresses new land areas is subject to the full standards applicable to new applications under this article.

As added by P.L.1-1995, SEC.27.

IC 14-34-5-5

Revision of permit

Sec. 5. (a) During the term of the permit, the permittee may submit an application for a revision of the permit, together with a revised reclamation plan, to the director. However, except for incidental boundary revisions, a new permit is required for any extensions to the permit area.

(b) The director may not approve an application for a permit revision unless the director finds the following:

(1) Reclamation required by this article can be accomplished under the revised reclamation plan.

(2) The permittee has complied with:

(A) IC 13-4.1-4 (before its repeal); or

(B) IC 14-34-4.

(c) The director shall establish guidelines for a determination of the scale or extent of a revision request for which all permit application information requirements and procedures apply.

As added by P.L.1-1995, SEC.27.

IC 14-34-5-6 Repealed

(Repealed by P.L.75-1998, SEC.14.)

IC 14-34-5-7

Change in reclamation plan; approval

Sec. 7. (a) A change in mining or reclamation operations from the approved mining and reclamation plans that would adversely affect the permittee's compliance with this article is a permit revision subject to review and approval as provided in this section and sections 8 through 8.4 of this chapter.

(b) A permit revision is either:

(1) a significant revision subject to sections 8 and 8.1 of this chapter;

(2) a nonsignificant revision subject to sections 8.2 and 8.3 of this chapter; or

(3) a minor field revision subject to section 8.4 of this chapter.

(c) Permit revisions may be approved by:

(1) the director; or

(2) the director's designated representative.

(d) A permit revision may not be approved unless the permittee demonstrates and the director or the director's designated representative finds the following:

(1) That reclamation as required by this article and by the rules adopted by the commission under IC 14-34-2-1 can be accomplished.

(2) That applicable requirements of IC 14-34-4-7 that are pertinent to the permit revision are met.

(3) That the permit revision complies with all applicable requirements of this article and the rules adopted by the commission under IC 14-34-2-1.

As added by P.L.1-1995, SEC.27. Amended by P.L.75-1998, SEC.6.

IC 14-34-5-8

Revision of permit; notice and hearing requirements

Sec. 8. (a) Unless an application for revision of a permit submitted under section 5 of this chapter is based only on nonsignificant revisions or minor field revisions, the application may be approved only after the notice and hearing requirements of this article for

issuance of a permit have been fulfilled.

(b) The director may impose other conditions for approval of the application.

As added by P.L.1-1995, SEC.27. Amended by P.L.75-1998, SEC.7.

IC 14-34-5-8.1

Significant revision; determination

Sec. 8.1. For purposes of sections 7 and 8 of this chapter, a proposed revision of a permit is significant if any of the following conditions exists:

(1) The changes may result in an adverse impact beyond that previously considered, affecting cultural resources that are listed on or eligible to be listed on:

(A) the National Register of Historic Places; or

(B) the register of Indiana historic sites and historic structures established under IC 14-21-1.

(2) Blasting will be used in a manner that is likely to cause adverse impacts beyond that previously considered to persons or property outside the permit area.

(3) The changes may result in an adverse impact beyond that previously considered, affecting a water supply to which IC 14-25-4 applies.

(4) The changes:

(A) require the identification, disturbance, or handling of toxic forming or acid forming materials different from those previously considered; and

(B) have the potential for causing an additional impact not previously considered.

(5) The changes may result in an adverse impact on fish, wildlife, and related environmental values beyond that previously considered.

(6) The addition of:

(A) a coal processing facility; or

(B) a permanent support facility;

is proposed, and the addition of the facility will cause an impact not previously considered, except that the addition of a temporary coal processing facility used exclusively for crushing and screening need not be considered a significant revision.

(7) The changes will cause:

(A) a new or an updated probable hydrologic consequences determination; or

(B) a cumulative hydrologic impact analysis to be required under IC 14-34-3-3.

(8) A postmining land use will be changed to any of the following:

(A) A residential land use.

(B) A commercial or industrial land use.

(C) A recreational land use.

(D) Developed water resources as defined in rules adopted by the commission under IC 14-34-2-1 that meet the size

criteria of 30 CFR 77.216(a).
As added by P.L.75-1998, SEC.8. Amended by P.L.1-1999, SEC.41.

IC 14-34-5-8.2

Nonsignificant revision; determination

Sec. 8.2. For purposes of sections 7, 8, and 8.3 of this chapter, a proposed permit revision is nonsignificant if any of the following conditions exist:

- (1) For surface mines, changes of the:
 - (A) direction of mining; or
 - (B) location of mining equipment;within the permit area.
- (2) The substitution of mining equipment designed for the same purpose, the use of which is not detrimental to the achievement of final reclamation or subsidence control.
- (3) For underground mines, any change in the direction or location of mining within the permit area or shadow area in response to unanticipated events.
- (4) A postmining land use change other than a change described in section 8.1(8) of this chapter.
- (5) Any other change in the mining or reclamation plan that the director reasonably determines:
 - (A) will not have a significant effect:
 - (i) on the achievement of final reclamation plans under IC 14-34-3-12;
 - (ii) on subsidence control plans; and
 - (iii) on the surrounding area;
 - (B) does not involve significant delay in achieving final reclamation or significant change in the land use; or
 - (C) is necessitated by unanticipated and unusually adverse weather conditions, other acts of God, strikes, or other causes beyond the reasonable control of the permittee, if all steps specified by the director to maximize environmental protection are taken.

As added by P.L.75-1998, SEC.9.

IC 14-34-5-8.3

Review and approval of nonsignificant revisions

Sec. 8.3. A nonsignificant revision in a mining or reclamation plan must be:

- (1) reviewed; and
- (2) approved in writing;

by the director before it may be implemented.

As added by P.L.75-1998, SEC.10.

IC 14-34-5-8.4

Minor field revision; determination and approval

Sec. 8.4. (a) For purposes of sections 7 and 8 of this chapter, a proposed revision of a permit is a minor field revision if the proposed change:

- (1) does not require technical review or design analysis; and
- (2) is capable of being evaluated in the field by the director's designated delegate for compliance with the requirements of section 7(d) of this chapter.
- (b) A minor field revision may be approved by a field inspector in an inspection report or on a form signed in the field.
- (c) A minor field revision approved under this section:
 - (1) must be properly documented and separately filed; and
 - (2) may include the following:
 - (A) Soil stockpile location and configurations.
 - (B) As-built pond certifications.
 - (C) Minor transportation facilities changes.
 - (D) Any of the following for a pond:
 - (i) Depth.
 - (ii) Shape.
 - (iii) Orientation.
 - (E) An area for temporary drainage control or temporary water storage.
 - (F) Equipment changes.
 - (G) Explosive storage areas.
 - (H) Minor mine management or support facility locations (except for the disposal or storage of refuse).
 - (I) Adding United States Natural Resources Conservation Service conservation practices.
 - (J) Methods of erosion protection on diversions.
 - (K) Temporary cessation of mining.
 - (L) Minor diversion location changes.

As added by P.L.75-1998, SEC.11.

IC 14-34-5-8.5

Application for extension of area covered by permit

Sec. 8.5. An extension of the area covered by a permit, except for an incidental boundary revision under section 8.6 of this chapter, must be made by applying for a new permit.

As added by P.L.75-1998, SEC.12.

IC 14-34-5-8.6

Incidental boundary revision; requirements; application and approval

Sec. 8.6. (a) For the area covered by a permit to be extended under this section as an incidental boundary revision, all of the following must apply:

- (1) The extension may not constitute a significant revision to the method of conduct of mining or reclamation operations contemplated by the original permit.
- (2) The extension must be required for the orderly and continuous mining and reclamation operation.
- (3) The extension must adjoin the permit or shadow area acreage.
- (4) The extended area must be mined and reclaimed in

conformity with the approved permit plans.

(5) The area of the extension may not exceed the lesser of:

(A) ten percent (10%) of the area originally covered by the permit; or

(B) twenty (20) acres.

(b) The aggregate of all incidental boundary revisions of a permit under this section may not exceed the area originally covered by the permit by more than fifteen percent (15%). However, the director may waive the limitation under this subsection if the director finds that:

(1) all other provisions of this section are met; and

(2) the interests of the public are not adversely affected.

(c) The aggregate of all incidental boundary revisions of a permit under this section that involve coal removal may not exceed the area originally covered by the permit by more than ten percent (10%).

(d) To obtain an incidental boundary revision under this section, a permittee must submit to the director an application containing the following:

(1) A statement of the size of:

(A) the original permit area; and

(B) the additional area that would be added by the boundary revision.

(2) A statement of the uses that:

(A) were made of the land before mining; and

(B) will be made of the land after mining.

(3) A showing that the requirements of subsection (a) are met.

(4) A map showing the additional area to be added by the boundary revision.

(5) Proof of the permittee's legal right to enter and conduct surface coal mining and reclamation operations on the additional area to be added by the boundary revision.

(6) Any necessary plans that are not contained in the permit already approved.

(7) A statement indicating whether any areas unsuitable for mining are contained in the permit already approved.

(e) An application for an incidental boundary revision may not be approved unless the applicant demonstrates and the director finds the following:

(1) That reclamation of the area as required by this article can be accomplished.

(2) That the application complies with all requirements of this article.

(f) The director shall approve or deny an incidental boundary revision of a permit under this section within thirty (30) days after the application for the proposed boundary revision is submitted to the director, unless the director finds that more than thirty (30) days are needed to adequately review the application and make the findings required by subsection (e).

(g) This section does not alter the general requirements of this article for the submission of fees and bonds.

As added by P.L.75-1998, SEC.13.

IC 14-34-5-9

Review of outstanding permits

Sec. 9. The director shall, within a time prescribed by rule, review outstanding permits. The director may require reasonable revision or modification of the permit provisions during the term of the permit if the revision or modification is based upon a written finding and is subject to the notice and hearing requirements established by IC 14-34-4.

As added by P.L.1-1995, SEC.27.

IC 14-34-5-10

Annual report

Sec. 10. A permittee must submit to the department an annual report that reflects the status of the permittee's mining and reclamation activities for each permit. The form, content, and date of filing of the report required by this section shall be prescribed by rule adopted under IC 4-22-2.

As added by P.L.1-1995, SEC.27. Amended by P.L.176-1995, SEC.5.

IC 14-34-5-11

Suspension or revocation of permit

Sec. 11. The director may suspend or revoke the permit of a permittee that does not revise a permit as required by the director before the expiration of the time fixed to effect the revision.

As added by P.L.1-1995, SEC.27.